

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARCO POLO Y FULLANTE, ACCUSED-APPELLANT.

G.R. No. 72899. January 30, 1987

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-72899/>

PARAS, J.:

Marco Polo y Fullante appeals from the judgment of the Regional Trial Court, Branch CL IX, Pasig, Metro Manila in Criminal Case No. 57688 for violation of Sec. 4, Art. II of R.A. 6425, as amended, otherwise known as the "Dangerous Drugs Act."

The Information against accused-appellant charged:

"That on or about the 7[th] day of February 1984, in the Municipality of San Juan, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused without having been authorized by law, did then and there wilfully, unlawfully and feloniously sell, deliver and give away to another person five (5) aluminum foils containing dried marijuana leaves, a prohibited drug, in violation of the above-cited law.

Contrary to law."

The prosecution evidence, as summarized in the People's Brief, is as follows:

"The un rebutted evidence for the prosecution is clear that in the afternoon of February 7, 1984, Pat. Alfredo Haliva, CIC Jose Reyla and Sgt. Salvador Aladano went to the vicinity of the Wennen's Snack Bar in San Juan, Metro Manila because of the information they received from Judy Ejercito that a person by the name of Marco Polo was selling marijuana at said snack bar (p. 3, tsn, July 3, 1984; p. 3, tsn, Oct. 3, 1984; p. 3, tsn, Oct. 24, 1984). They contacted a confidential informer to act as the poseur-buyer to buy marijuana from appellant. Accordingly, Sgt. Aladano gave the marked money in the amount of P75.00 in denomination of one P50.00-bill, one P20.00-bill and one P5.00-bill to the confidential informer with which to buy marijuana from appellant (p. 4, tsn, Oct. 3, 1984; p. 3, tsn, Oct. 24, 1984). The confidential informer followed by CIC Jose Reyla went inside the Wennen's Snack Bar (p. 3, tsn, Oct. 24, 1984). Thereat, the confidential informer and appellant conversed with each other after which the former handed to the latter the marked money in the amount of P75.00 (pp. 3, 4, tsn, Oct. 24, 1984). Appellant left and after some time, returned to the Wennen's Snack Bar and handed to the confidential informer a brown paper bag which turned out to contain five aluminum foils of dried marijuana leaves (p. 4, tsn, Oct. 24, 1984). CIC Jose Reyla accosted appellant and asked where he got the five aluminum foils of marijuana leaves. Appellant answered that he got them from someone named 'Bobby' (p. 5, tsn, Oct. 24, 1984). The appellant was brought to Camp Crame for investigation. He reiterated that he got the marijuana from Bobby."

Upon the other hand, the defense gave the following version of the incident:

"The accused Marco Polo, formerly a waiter of Wennen's Snack Bar in San Juan, Metro Manila, testified that on February 7, 1984 at about 4:30 in the afternoon, two students came to him at the said Snack Bar and told him to buy for them marijuana. But he told him to buy from the pushers around. Thereafter, the two students

went to the pushers roaming around the place. He denied having been caught delivering marijuana to CIC Reyla. He was arrested and brought to Camp Crame. There he was forced to confess as to who were selling marijuana in their place. He told the Narcotics agents that he does not know. He was forced to give a statement to the PC investigator when he was threatened with harm if he refused (pp. 5-8, TSN, Oct. 31, 1984; pp. 2-3, TSN, Nov. 28, 1984)."

After trial, the court a quo rendered a judgment of conviction, the dispositive portion of which reads:

"IN VIEW OF ALL THE FOREGOING, the Court finds the accused Marco Polo y Fullante guilty beyond reasonable doubt of the crime of violation Sec. 4, Art. II, of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, and sentences him to suffer life imprisonment, and to pay the costs.

The five (5) aluminum foils of dried marijuana leaves (Exhs. B-2 to B-6) are ordered confiscated in favor of the State and should be delivered to the National Bureau of Investigation, Forensic Chemistry Section, Dangerous Drugs Board Unit, Manila.

SO ORDERED."

From the above disposition, accused-appellant elevated the case to Us, assigning the following errors —

- The court a quo erred in not finding that the accused-appellant was a frame-up victim, and
- The court a quo erred in not finding that the extrajudicial confession allegedly given by the accused-appellant is not admissible in evidence.

In support of his contention that he was a victim of a frame-up, appellant argues that (a) the contradicting testimonies of the Narcotics agents in court show that he (accused) was not in possession of marijuana, much less in the act of selling the same, when he was arrested in the afternoon of February 7, 1984; (b) the failure to present in court the marked money shows that the agents were telling lies, and (c) another thing that shatters the credibility of the agents is their testimony that the appellant was selling marijuana inside the snack bar for why would a person expose himself to the risk of being arrested by peace officers by selling marijuana in a public place.

Anent his second assigned error, appellant claims that his extrajudicial confession (Exh. "F") was taken in violation of his constitutional rights because he was not apprised of his right to remain silent and to obtain a counsel of his own choice. He further alleges that he was not informed that all that he would state might be used as evidence against him.

The appeal is meritless.

The claim of appellant that he was a victim of a frame-up is a conjecture which does not deserve any serious consideration.

There may be contradictions in the testimonies of the prosecution witnesses but they are not on material points. We find as established that, notwithstanding his denials, appellant was arrested after selling five (5) aluminum foils of marijuana leaves. The Narcotics agents who received the information from a certain Judy Ejercito that appellant was selling marijuana proceeded to the Wennen's Snack Bar. They contacted a confidential informer who acted as the poseur buyer. After appellant sold to the poseur-buyer five aluminum foils of dried marijuana leaves, appellant was immediately put under arrest.

The fact that the money given to appellant was not presented in court does not militate against the prosecution's case. For, the evidence is clear that the marked money in the amount of P75.00 was given by the confidential informer to appellant. After appellant was handed the money he went out and shortly thereafter returned with five

aluminum foils of dried marijuana leaves. Appellant himself admitted both in his sworn statement (Exh. "F") and in his testimony in court that he got the marijuana leaves he sold from a certain Bobby.

Finally, the belated repudiation by appellant of his extrajudicial confession on the ground that it was taken in violation of his constitutional rights is without any semblance of credibility.

Appellant's extrajudicial confession is prefaced as follows:

"Tagapagsiyasat:

Ikaw ginoong Marco Polo y Fullante ay nasa ilalim ng isang pagsisiyasat dahilan sa paglabag mo sa Batas na Sec. 4, Art. II RA 6425 (pagbebenta ng Marijuana, ipinagbabawal na gamot) ngunit bago kita tanungin ay nais ko munang ipabatid sa iyo ang iyong mga karapatan bilang malayang mamamayan alinsunod sa ating Saligang Batas gaya ng mga sumusunod

- a. Karapatan mo ang manahimik o huwag sumagot sa aking mga tanong kung inaakala mong ito'y makakasama sa iyong pagkatao.
- b. Karapatan mo rin ang kumuha ng iyong sariling abogado para matulungan ka sa pagbibigay mo ng iyong salaysay at nais mo naman at wala kang ikakaya ang himpilang ito ang kukuha ng isa para sa iyo ng walang bayad.
- k. Ipinaalala ko rin sa iyo na ang lahat ng iyong sasabihin at isasagot sa aking mga tanong ay pawang katotohanan lamang sapagkat ito'y maaaring gamiting ibidensiya laban or panig sa iyo sa alin mang hukuman dito sa ating bansa.

TANONG: Matapos kong maipaliwanag sa iyo ang iyong mga karapatan bilang isa ng malayang mamamayan alinsunod sa ating Bagong Saligang Batas, ito ba ay iyong naintindihan at naunawaan?

SAGOT: Opo.

TANONG: Kung gayon nakahanda ka pa bang magbigay ng iyong malaya at kusang loob na salaysay kahit wala kang abogado na naririto sa ngayong na hindi ka pinilit, tinakot, sinaktan o pinangakuan ng alin mang bagay.

SAGOT: Opo."

P A G P A P A T U N A Y "

AKO, si Marco Polo y Fullante ay nagpapatunay sa pamamagitan ng paglagda ko sa ibaba nito na ako ay pinaalalahanan ng aking mga karapatan bilang isang mamayan alinsunod sa ating Bagong Saligang Batas at hindi ko na kailangan pa ang isang abogado dahil pawang katotohanan lamang po ang aking sasabihin, at ako ay hindi pinilit, tinakot, sinaktan o pinangakuan ng alin mang bagay.

(Lagda)

MARCO POLO Y FULLANTE

(Nagsasalaysay)"

(Exh. F-3)

Thus, appellant was fully apprised of his constitutional rights under custodial investigation and the consequences of his waiver of said rights. Nonetheless, he volunteered to give an extrajudicial confession (Exh. "F"), which is unquestionably admissible. And, the fact is, there are no signs of physical injuries on his body and no complaint was filed with any authority for maltreatment or violence exerted upon him; on the other hand, the confession is full of details which only appellant could have known and could not have been concocted by the investigator.

Moreover, even if appellant's extrajudicial confession would be disregarded, the evidence of the prosecution is sufficient to prove his guilt beyond reasonable doubt.

Thus, there is testimony that the actual handing over of the marijuana in exchange for the money consideration of P75.00 was seen by eye-witnesses (See testimony of Patrolman Haliva, tsn, p. 4, July 3, 1984; Testimony of CIC Jose Reyla, tsn, pp. 3-4, Oct. 24, 1984). The accused was caught in flagrante (in the very act charged against him). (Ibid.) The testimony is clear on the time, place, and surrounding circumstances. No adequate rebuttal was ever made (See tsn, pp. 3-8, Oct. 3, 1984, Testimony of Sgt. Salvador Aladano).

WHEREFORE, the appealed judgment is hereby AFFIRMED, with costs against appellant.

SO ORDERED.

Fernan, (Chairman), Alampay, and Bidin, JJ., concur.

Gutierrez, Jr., J., concur in the decision and with Justice Padilla's observations.

Padilla, J., see concurring opinion.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.